### IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS AMARILLO DIVISION

JOSE GALLEGOS,	§	
	§	
Petitioner,	§	
	§	
v.	§	2:17-CV-252
	§	
LORIE DAVIS, Director,	§	
Texas Department of Criminal Justice,	§	
Correctional Institutions Division,	§	
	§	
Respondent.	§	

# FINDINGS, CONCLUSIONS AND RECOMMENDATION TO DISMISS PETITION FOR A WRIT OF HABEAS CORPUS

On December 26, 2017, petitioner, a state prisoner at the Neal Unit, submitted a "Petition for Review" wherein he appears to be attempting to initiate a proceeding for a federal writ of habeas corpus challenging a disciplinary proceeding conducted at the Neal Unit. On December 27, 2017, the Court ordered petitioner to submit a properly completed form Petition for a Writ of Habeas Corpus by a Person in State Custody Pursuant to 28 U.S.C. § 2254; petitioner filed that form on January 9, 2018.

The same date, petitioner submitted an application to proceed in forma pauperis, in lieu of paying the requisite filing fee; however, petitioner failed to include a certified in forma pauperis data sheet from the institution in which he is confined. Petitioner also submitted, the same date, an "Order to Show Cause For an (sic) Preliminary Injunction and a Temporary Restraining Order" with a brief in support. These two motions remain pending before the Court.<sup>1</sup>

The Court's January 11, 2018 order allowed petitioner until January 31, 2018 in order to

<sup>1</sup> Petitioner submitted a third motion on January 9, 2019 entitled "Motion on Service: How Made in General," which

the undersigned denied on February 5, 2018.

submit the *in forma pauperis* data sheet. In that order, the Court admonished petitioner that his failure to properly supplement within the time allowed might result in the immediate dismissal of this case without further notice, that no action on this case would be taken until petitioner complied with the Order and finally that any motions currently pending or submitted prior to the Court's receipt of the certified data sheet were subject to being stricken.

As of this date, petitioner has not complied with the Court's Order and is in direct disregard of an Order of the Court. It is the opinion of the undersigned that petitioner has neglected his case to such an extent that it warrants dismissal.

### RECOMMENDATION

It is the RECOMMENDATION of the United States Magistrate Judge to the United States

District Judge that this case filed by petitioner JOSE GALLEGOS be DISMISSED for want of
prosecution.

#### INSTRUCTIONS FOR SERVICE

The United States District Clerk is directed to send a copy of these findings, conclusions and recommendation to each party by the most efficient means available.

IT IS SO RECOMMENDED.

ENTERED February 6, 2018.

LEE ANN RENO

UNITED STATES MAGISTRATE JUDGE

# \* NOTICE OF RIGHT TO OBJECT \*

Any party may object to these proposed findings, conclusions and recommendation. In the event parties wish to object, they are hereby NOTIFIED that the deadline for filing objections is fourteen (14) days from the date of filing as indicated by the "entered" date directly above the signature line. Service is complete upon mailing, Fed. R. Civ. P. 5(b)(2)(C), or transmission by electronic means, Fed. R. Civ. P. 5(b)(2)(E). Any objections must be filed on or before the fourteenth (14th) day after this recommendation is filed as indicated by the "entered" date. See 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b)(2); see also Fed. R. Civ. P. 6(d).

Any such objections shall be made in a written pleading entitled "Objections to the Findings, Conclusions and Recommendation." Objecting parties shall file the written objections with the United States District Clerk and serve a copy of such objections on all other parties. A party's failure to timely file written objections shall bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings, legal conclusions, and recommendation set forth by the Magistrate Judge and accepted by the district court. See Douglass v. United Services Auto. Ass'n, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc), superseded by statute on other grounds, 28 U.S.C. § 636(b)(1), as recognized in ACS Recovery Servs., Inc. v. Griffin, 676 F.3d 512, 521 n.5 (5th Cir. 2012); Rodriguez v. Bowen, 857 F.2d 275, 276-77 (5th Cir. 1988).